

REMARKS

Favorable reconsideration of this application, in view of the present amendments and in light of the following discussion, it is respectfully requested.

After entry of this amendment Claims 1-18, 20-37 are pending. Claims 1, 34 and 36-37 are amended, and Claim 19 is canceled without prejudice or disclaimer. No new matter is introduced.

In the outstanding Office Action, Claims 1-16, 19, 26 and 32-37 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Logston (PCT International Publication No. WO 01/77815, hereafter “Logston”) in view of Johnson (U.S. Patent Application Publication No. 2002/0049841, hereafter “Johnson”) and Piskiel (PCT International Publication No. WO 97/46939, hereafter “Piskiel”); Claim 17 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Logston, Johnson, and Piskiel in further view of Hutcheson (U.S. Patent No. 6,947,761, hereafter “Hutcheson”); Claim 18 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Logston, Johnson, Piskiel in further view of Suarez (U.S. Patent No. 5,790,789, hereafter “Suarez”); Claims 20-25 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Logston, Johnson, and Piskiel in further view of De Mendonca (U.S. Patent Application Publication No. 2004/0172453, hereafter “De Mendonca”); Claims 27-28 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Logston, Johnson, and Piskiel in further view of Guruprasad (U.S. Patent No. 6,802,068); Claim 29 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Logston, Johnson, Piskiel, and Guruprasad in further view of Iyer (U.S. Patent Application Publication No. 2004/0203749, hereafter “Iyer”); Claim 30 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Logston, Johnson, and Piskiel in further view of Podgorny (U.S. Patent No. 6,078,948, hereafter “Podgorny”); and Claim 31 was rejected under 35 U.S.C. § 103(a) as being

unpatentable over Logston, Johnson, and Piskiel in further view of Vange (U.S. Patent No. 7,020,783, hereafter "Vange").

In reply to the rejection of Claims 1-16, 19, 26 and 32-37, Claim 19 is canceled without prejudice or disclaimer. Further, Claim 1 is amended to recite, *inter alia*, a data access, replication or communication system that includes:

a terminal including an electronic memory storing a terminal-side executable and a processor provided to execute the terminal-side executable to enable communication therewith independent of a session-based protocol, the terminal-side executable dividing a message into a plurality of packets, each packet having a size corresponding to a transport protocol payload size; and

a server including an electronic memory storing a server-side executable and a processor provided to execute the server-side executable to enable communication therewith independent of a session-based protocol, the server-side executable dividing a message into a plurality of packets, each packet having a size corresponding to a transport protocol payload size,

wherein the terminal-side executable and the server-side executable exchange messages using a message queuing system over a network and cooperatively function as a client of a second server and *the server-side executable uses data stored on the server to complete an incomplete message received from the terminal.* (Emphasis added.)

Turning to the primary reference, Logston describes a method and apparatus for determining and characterizing resource capabilities of client devices in a distributed application network. Logston describes that a distributed application server portion (DASP) is installed on a server to communicate with one or more distributed application client portions (DACP) installed in one or more client devices.¹ Logston also describes that the server (206), which houses the DASP includes a database (212) storing configuration records (214) of the respective client devices (208).² The configuration records (214) are generated by the DACP in the respective client devices (208), and are used by the DASP to determine

¹ Logston at page 10, lines 14-20.

² Logston at page 11, lines 7-11.

which components and/or modules of the distributed application are to be installed in the client devices (208).³

However, Logston does not describe that the DASP uses the configuration records (214) to complete incomplete messages received from the client devices (208). Instead, Logston describes that a master server (254) may have one or more serially connected slave servers (252), which in turn communicate with the client devices (208).⁴ Thus, Logston describes that the master server (254) may allocate *modules of the distributed application* to its immediate slave server (252), and the immediate slave server (252) may propagate one or more of these modules to a further slave server along the serial chain, and ultimately to the client device (208).⁵ Nowhere, however, does Logston describe that *messages* received from the client devices (208) by the slave servers (252) or the master server (254) may be incomplete, much less that the slave servers (252) or the master server (254) use internally stored data to complete any incomplete messages received from the client devices (208). Conversely, amended Claim 1 recites that a server includes a server-side executable which uses data stored on the server to complete an incomplete message received from the terminal. As such, Logston fails to disclose the claimed server, and neither Johnson nor Piskiel cure this deficiency in Logston. Therefore, no combination of Logston, Johnson and Piskiel describe every feature recited in amended Claim 1, and amended Claim 1, together with its corresponding dependent claims, is believed to be in condition for allowance.

Moreover, amended Claims 34 and 37 recite features substantially similar to those recited in amended Claim 1, and are thus believed to be in condition for allowance for substantially the same reason.

Further, amended Claim 36 recites, *inter alia*, a terminal that includes:

³ Logston at page 11, lines 10-15.

⁴ Logston at page 11, lines 15-25; see also Figures 2A and 2B.

⁵ Logston at page 12, lines 15-25.

a processor configured to execute the terminal-side executable
to ...

automatically send the queued messages upon re-
establishment of the network connection via at least one of a
wired connection or a wireless connection to the network,
*messages relating to a same dataset being sent through
different transmission channels according to message size.*
(emphasis added).

The outstanding Office Action acknowledges that neither Logston nor Johnson, alone or in combination, discloses the above-excerpted feature, but cites Piskiel as describing this feature.⁶ Piskiel describes a balanced queue system for rapid and reliable transmission and reception of transaction messages in a distributed computing environment.⁷ Piskiel also describes that messages are communicated between an originating node (200) and a receiving node (220) via a communication link level (210), such as TCP/IP or Novel, Netware functions on LAN or WAN networks.⁸ The originating node (200) stores sent messages in a sending queue (214), and the receiving node (220) stored received messages in a receiving queue (234).⁹ Should a transmission error occur, message states are maintained in the respective sending (214) and receiving (234) queues such that message states can be recovered when transmission resumes.¹⁰

However, Piskiel does not describe that the transaction messages are sent through different channels according to their size. Instead, Piskiel merely describes that messages from an originating node (200) are transmitted “exactly once” to a receiving node (220) to avoid duplicates, and that the state of message processing is automatically recovered after an error.¹¹ Nowhere, however, does Piskiel describe transmitting the transaction messages through different channels, much less transmitting the transaction messages through different

⁶ See the outstanding Office Action at the top of page 14.

⁷ Piskiel at page 4, lines 10-20.

⁸ Piskiel at page 15, lines 1-11.

⁹ Piskiel at page 14, lines 20-30; page 16, lines 5-21; see also Figure 2.

¹⁰ Piskiel at page 32, lines 15-27.

¹¹ Piskiel at page 7, lines 9-16; page 32, lines 24-28.

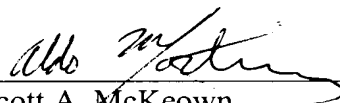
channels according to their sizes. Conversely, amended Claim 36 recites that messages relating to a same dataset are sent through different transmission channels according to message size. Therefore, Piskiel fails to disclose the above-excerpted feature, and no combination of Logston, Johnson and Piskiel describe every feature recited in amended Claim 36. As such, amended Claim 36 is believed to be in condition for allowance. Accordingly, for the reasons stated above, it is respectfully requested that the rejection of Claims 1-16, 19, 26 and 32-37 under 35 U.S.C. § 103(a) be withdrawn.

As all other rejections of record rely upon the combination of Logston, Johnson and Piskiel for describing the above-distinguished features, and the above-distinguished features are not disclosed by the combination of Logston, Johnson, and Piskiel, alone or in combination with any other art of record, it is respectfully submitted that a *prima facie* case of obviousness has not been presented. Accordingly, it is respectfully requested that the rejection of Claims 17-18, 20-25, 27-29 and 30-31 under 35 U.S.C. § 103(a) be withdrawn.

For the reasons discussed above, no further issues are believed to be outstanding in the present application, and the present application is believed to be in condition for formal allowance. Therefore, a Notice of Allowance for Claims 1-18, 20-37 is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Scott A. McKeown
Attorney of Record
Registration No. 42,866

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/07)

Aldo Martinez
Registration No. 61,357